In re application of: Martinez et al.   §   Group Art Unit: 2173

                                            §

Serial No.: 09/981,877   §   Examiner: Dennis G. Bonshock

                                            §

Filed: October 18, 2001   §   Attorney Docket No: AUS920010923US1

                                            §

For: METHOD OF PREVIEWING A

GRAPHICAL IMAGE

CORRESPONDING TO AN ICON IN A

CLIPBOARD

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF (37 C.F.R. § 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on February 19, 2009. A fee of $540.00 is required for filing an Appeal Brief. Please charge this fee to IBM Corporation Deposit Account No. 09-0457. No additional fees are believed to be necessary. If, however, any additional fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0457. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0457.

REAL PARTY IN INTEREST

The real party in interest in this appeal is assignee International Business Machines Corporation, a corporation organized and existing under the laws of the State of New York, USA and located at 1 New Orchard Road, Armonk, New York 10504, USA.

RELATED APPEALS AND INTERFERENCES

The application had formerly been the subject of an Appeal (Appeal 2007-3276), wherein the notice of appeal was filed October 5, 2004.

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1-17.

B. STATUS OF ALL THE CLAIMS IN APPLICATION

1.   Claims cancelled: NONE.

2.   Claims withdrawn from consideration but not cancelled: 4-8, and 12-16.

3.   Claims pending: 1-3, 9-11, and 17.

4.   Claims allowed: NONE

5.   Claims rejected: 1-3, 9-11, and 17.

6.   Claims objected to: NONE

C. CLAIMS ON APPEAL

The claims on appeal are: 1-3, 9-11, and 17.

STATUS OF AMENDMENTS

No amendments after the Final Rejection were made. Therefore, claims 1-3, 9-11, and 17 on appeal herein are as they have been entered in (or prior to) Response to Final Office Action dated January 26, 2009.

SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1:

The invention provides a method of previewing a graphical image (Fig. 1, block 18) corresponding to an icon (Fig. 1, block 16) in a clipboard (Specification page 4, lines 12-25). The method includes receiving an icon preview instruction (Specification page 3, lines 7-12; page 4, lines 17-20) from a user and displaying the graphical image (Specification page 2 lines 19-21, Fig. 1 block 18) associated with the icon 18 in response to the icon preview instruction (Specification page 4, lines 17-20).

Independent Claim 9:

The invention further provides a computer usable medium (Specification page 3 lines 7-9; page 3 lines 15-19) including a program for previewing a graphical image corresponding to an icon in a clipboard. The medium includes computer readable code for receiving an icon preview instruction from a user (Specification page 3, lines 7-12; page 4, lines 17-20), and computer readable code for displaying the graphical image (Specification page 2 19-21, Fig. 1 block 18), associated with the icon (Fig. 1, block 16) in response to the icon preview instruction (Specification page 4, lines 17-20).

Independent Claim 17:

The invention further provides a method of displaying a clipboard. The method includes receiving a paste command (Specification page 2 lines 22-23). The method includes determining whether a plurality of objects are stored within the clipboard (Specification page 2 lines 23-24; Fig. 1, block 12) in response to the paste command (Specification page 2 lines 14-19). The method includes displaying the clipboard adjacent a display position indicator (Fig. 2, block 14), if it is determined a plurality of objects are within the clipboard (Specification page 2 lines 15-19; page 6, lines 1-6, Abstract). The method further includes removing the clipboard from a display in response to movement of the display position indicator not adjacent to the clipboard (Specification page 2 line 29 through page 3 line 4; page 6 lines 24-28).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A.   GROUND OF REJECTION 1 (Claim 17)

Whether claim 17 is anticipated in view Microsoft Word public use (hereinafter "*MSword*") under 35 U.S.C. § 102(a).

B.   GROUND OF REJECTION 2 (Claims 1-3 and 9-11)

Whether claims 1-3 and 9-11 are obvious in view of Foster et al. (Patent Number 5,404,442, hereinafter "*Foster*") in view of Microsoft, "Microsoft Word 2000" (hereinafter "*MSword*") under 35 U.S.C. § 103(a).

ARGUMENT

A. GROUND OF REJECTION 1: Claim 17

For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 USPQ2D 1566 (Fed. Cir. 1990). Appellants will now show that every element recited in Claim 17 is not identically shown in the evidence concerning *MSword*, and thus Claim 17 has been erroneously rejected under 35 U.S.C. § 102(a) as being anticipated by Microsoft Word.

Claim 17 recites:
>A method of displaying a clipboard comprising:
>receiving a paste command;
>determining whether a plurality of objects are stored within the clipboard
>in response to the paste command;
>displaying the clipboard adjacent a display position indicator, if it is
>determined a plurality of objects are within the clipboard; and
>removing the clipboard from a display in response to movement of the
>display position indicator not adjacent to the clipboard.

[T]he role of the Examiner as finder of fact, the Court of Appeals for the Federal Circuit has stated: "the examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a prima facie case of unpatentability." *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). "[P]reponderance of the evidence is the standard that must be met by the PTO in making rejections . . . ." *In re Caveney*, 761 F.2d 671, 674, 226 USPQ 1, 3 (Fed. Cir. 1985). Once the U.S. Patent and Trademark Office (USPTO) establishes a *prima facie* case, the burden of production or going forward with the evidence shifts to the applicant. *Cf. In re Epstein*, 32 F.3d 1559, 1570-71, 31 USPQ2d 1817, 1824-25 (Fed. Cir. 1994). (third-party software products were "in public use or on sale" more than one year before filing date based on abstracts stating "first installed" dates).
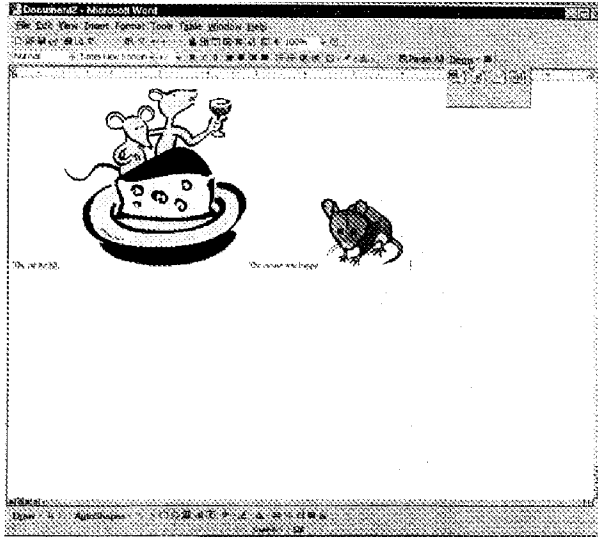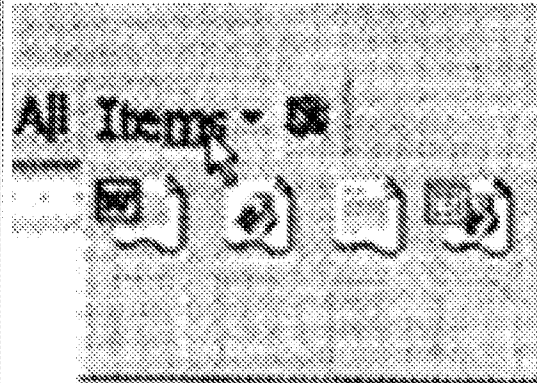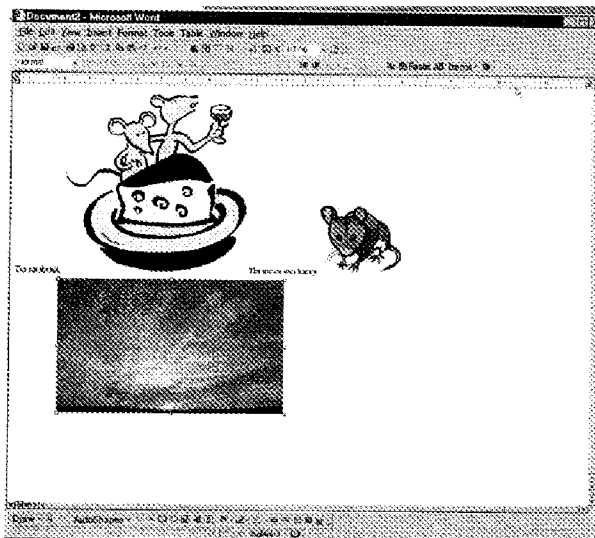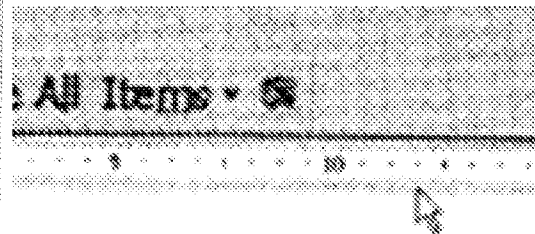
Figure 6

Enlargement

Figure 7

Enlargement

The Examiner offers Figure 6 as a snapshot depicting *MSword* before 'removing the clipboard from the display' as well as Figure 7 as allegedly teaching the claim 17 recited, "removing the clipboard".

> With regard to claim 17, which further teaches removing the clipboard in response to moving the position indicator so that the position indicator is not adjacent to the clipboard, MSword teaches, in figures 6 and 7, hiding the clipboard upon position [sic] the indicator off of the clipboard and onto the document.

Final Office Action dated November 25, 2008, page 3.

In contrast, Applicants respectfully urge that the Figure 6 and Figure 7 show removal of a

clipboard for reasons other than, as recited in claim 17, "in response to movement of the display position indicator not adjacent to the clipboard". In particular, Figure 7 shows the addition of a sunset image at the bottom of the *MSword* document. Applicants urge that the appearance of the sunset image suggests that a mouse click intervened between the snapshot of *MSword* Figure 6 and snapshot of Figure 7. Further, Applicants urge that the mouse click, and not the movement of the cursor above the clipboard, actually triggered a change in clipboard visibility. The appearance of the sunset image is inconsistent with the Examiner's interpretation, as will be further explained below.

Accordingly, the Examiner has not met his burden of proof to show that *MSword* teaches the claimed feature, including causality, by a preponderance of the evidence. Moreover, the burden has not shifted to the Applicant, for the reason that the Examiner has not satisfied the preponderance of the evidence test.

Nevertheless, Applicants offer evidence of *MSword* operation by way of the Affidavit, signed by Mr. Anthony Champion, of January 14, 2009, hereinafter *"Champion Affidavit"* (Exhibit B, herein below).

The alternate and correct interpretation of the events before Figures 6 and/or 7 are supported by the attached Affidavit, wherein Mr. Champion attests to steps performed to make the *MSword* clipboard disappear. The photos of executing *MSword*, within the *Champion Affidavit*, were taken prior to Mr. Champion testing *MSword*. The photos were taken of the Digital Hinote VP laptop on or about January 9, 2009. Mr. Champion validated such photos by testing a script of inputs on January 14, 2009 using the same Digital Hinote VP laptop. Applicants are willing to stipulate that a Digital Hinote VP laptop running the Microsoft Windows 98 operating system coupled with the Microsoft Word 2000 software was in public use on or before the present application was filed.

The *MSword* responds to events, which are in turn driven by the geometry of the graphic elements. *MSword* responses are controlled by computer instructions. Inferences can be gained as to the operation of *MSword* by experimenting with the actual software operating on a computer using an operating system that was also publicly available prior to the Applicants application filing.

For convenience, certain features of the menu and/or clipboard are illustrated with
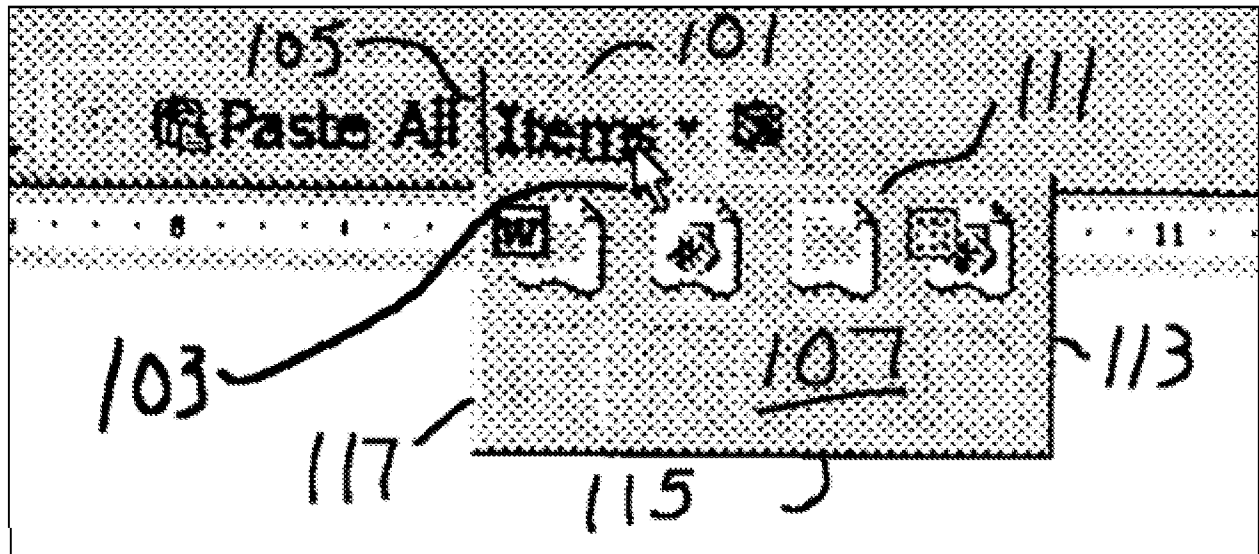
numeric callouts below.

EXHIBIT A

Applicants offer Exhibit A (above, see also Evidence Appendix below), an enlarged and labeled version of Examiner's Figure 6, to provide more details of the operation of *MSword*. Moving the cursor across every boundary of the clipboard (**111**, **113**, **115**, **117**) causes no change in the visibility of the clipboard during repeated trials of the Hinote VP laptop by Applicants' representative. Consider what the actual trigger is to cause the clipboard **107** to remain visible post-cursor-exit, and what the actual trigger is to cause the clipboard **107** to disappear. The cause is explicitly stated in claim 17, "removing the clipboard from a display *in response to* movement of the display position indicator not adjacent to the clipboard". The *MSword* cursor **103** can encounter the 'Items' menu boundary **105** either at the top of the vertical boundary **105**, at the bottom, or any point in between. When the cursor **103** penetrates any part of the boundary **105**, *MSword* behaves by removing the clipboard **107**. Accordingly, it is apparent that the **cause** of the removal is the event of the cursor **103** leaving the 'Items' menu **101**. It is possible that the cursor of *MSword* is adjacent to the clipboard upon this event occurring.

However, the coincidental presence of the cursor does not express a public use of a cursor's changed locations **causing** removal in the manner claimed. The *MSword* cursor moving from adjacent to not adjacent vis-à-vis the clipboard at the moment the cursor **103** exits the left boundary **105** is mere coincidence. Rather than practice a the claimed cause of removal,

MSWord removes the clipboard **107** based on a triggering event that always is the event of the cursor leaving the 'Items' menu **101** to an adjacent menu such as 'Paste All' or 'Delete'. This departure from the 'Items' menu, practiced by *MSword*, which performs a trigger of movement outside the 'Items' menu, would not be confused with the claimed limitation of responsiveness to movement of the display position indicator not adjacent to the clipboard. In short, *MSword* practices removal of the clipboard always upon the event of the cursor leaving the 'Items' menu **101** -- a cause unrelated to the cause recited in claim 17.

In contrast, claim 17 recites, "removing the clipboard from a display in response to movement of the display position indicator not adjacent to the clipboard." Applicants contend that the claim plainly states a cause and effect. The cause is "movement of the display position indicator not adjacent to the clipboard." The effect is "removing the clipboard from a display". The synergy between cause and effect is plainly stated. Strangely, the Examiner urges that because *MSword* **shows that moving a cursor left to right over 'Items'** (incidentally occurring moments before the cursor leaves the 'Items' menu) changes clipboard visibility, therefore the claim limitation is shown. Plainly, the causal relationship in claim 17 is not taught in the manner that *MSword* functions. Rather, *MSword* teaches to remove the clipboard **in response to moving a cursor laterally outside an 'Items' menu 101.**

> I can make the clipboard disappear by first placing the cursor over the
> 'Items' menu (See Fig. 5), and moving the mouse to the left.
> *Champion Affidavit* dated January 14, 2009, page 11.

In short, *MSword* teaches to remove the clipboard when the cursor moves from Items menu **101** to the menu item "Paste All". At that time, the cursor was **already not adjacent to the clipboard**. The *MSword* clipboard, as shown in the *Champion Affidavit*, was not adjacent **before** crossing to "Paste All" as well as **after** crossing to "Paste All". Consequently, the fact that the cursor is not adjacent during each of these two stages indicates that non-adjacency does not trigger the effect recited in claim 17.

Even if the *MSword* cursor becomes "not adjacent" at the moment of transitioning left to right out of Items menu, the weight of the evidence points to the cause as being movement left to right. Repeated trials and examples of cursor non-adjacency include at least *Champion Affidavit*

(Exhibit B)[1] Figures D, F, G, H, and I. As can be seen, *MSword* persists to show the clipboard even with a cursor being not adjacent. This persistence entirely contradicts the plain language of claim 17.

In summary, claim 17 recites a co-action of cause and effect. The cause is "moving the position indicator so that the position indicator is not adjacent to the clipboard", the effect is "removing the clipboard". Ignoring this causal relationship is to entirely read out the "in response to" portion of the claim, and is wholly improper.

Accordingly, for at least the reason that *MSword* fails to teach the claim 17 recited, "removing the clipboard from a display in response to movement of the display position indicator not adjacent to the clipboard", Applicants urge that claim 17 is allowable over *MSword*.

B.   GROUND OF REJECTION 2: Claims 1-3 and 9-11

Claim 1 recites:

> 1. A method of previewing a graphical image corresponding to an icon in a clipboard, comprising:
> receiving an icon preview instruction from a user; and
> displaying the graphical image associated with the icon in response to the icon preview instruction.

The examiner bears the burden of establishing a *prima facie* case of obviousness based on prior art when rejecting claims under 35 in U.S.C. §103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q. 2d 1780 (Fed. Cir. 1992). Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusions of obviousness. *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (U.S. 2007) (citing *In re Khan*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Additionally, the prior art reference (or references, when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974).

Claim 1 which corresponds to claim 9 is recited below:

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[1] The 1999 [Microsoft Word Copyright notice] date clearly antedates the October 18, 2001 filing date of the instant invention, and is thus "before the invention thereof by the applicant for patent," as required by the language of 35 U.S.C. §102(a). Therefore, we consider the Microsoft Word screenshots made by the Examiner as admissible evidence to be considered under 35 U.S.C § 102(a). Appeal No. 2007-3276, p. 7.

A method of previewing a graphical image corresponding to an icon in a clipboard, comprising:

receiving an icon preview instruction from a user; and

displaying the **graphical image** associated with the icon in response to the icon preview instruction.

The Applicants urged in the previous response that *Foster* fails to teach claim 1 reciting, "displaying the graphical image associated with the icon in response to the icon preview instruction". The Examiner responded:

The Applicant argues "How can Foster display an image in response to an icon preview instruction, if the image is already present on the Foster icon?"

In response, the Examiner respectfully submits that when docked a default generic image is displayed to the user, only under user initiation of a drag operation is it converted in to the object it carries (see column 9, lines 44-51 and figure 5c).

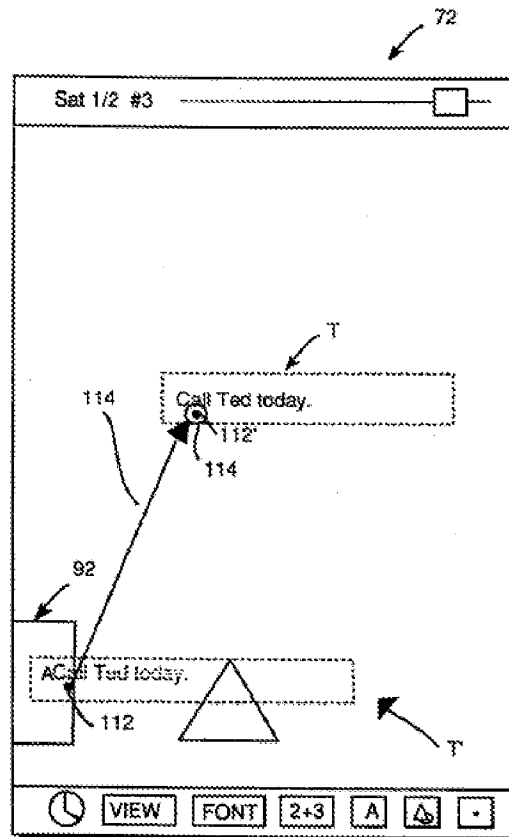Final Office Action dated November 25, 2008, p. 8.

Fig. 5c

In **FIG. 5c,** visible clipboard icon **92** can be selected by placing a point **112** of stylus **38** near or within its bounding box. In this instance, ***the selection of the icon 92 causes a text object T' to appear on the screen*** which can be dragged as indicated by the arrow **114**. When the point of the stylus **38** reaches the point **112'**, it can be lifted from the screen as indicated by circle **114** to "paste" the text object T at that location.

Foster col. 9, lines 44-51 (emphasis added).

The Board of Appeals and Interferences has unequivocally affirmed Applicants by interpreting that a teaching of text does not teach a claim 1 recited, "graphical image".

Nevertheless, we do not find the Examiner's broad reading of the claim to be a reasonable interpretation consistent with how a person of ordinary skill in the art would have interpreted the ordinary and customary meaning of the claim term "graphical image," as opposed to "text."

Board of Patent Appeals and Interferences, Appeal No. 2007-3276, dated January 4, 2008, p. 9.

Appellants have met their burden of showing that the Examiner erred in rejecting claims 1-3 and 9-11 under 35 U.S.C. § 102(a).

Board of Patent Appeals and Interferences, Appeal No. 2007-3276, dated January 4, 2008, p. 12.

Both the passage and asserted Figure 5C show ***text***. Accordingly, the Board of Appeals and Interferences agrees with Applicants that a teaching of purely text does not read on the claim 1 recited, "graphical image". Accordingly, the Examiner has not made a *prima facie* case of obviousness with respect to claim 1. The Examiner admits that *MSword* does not supply this missing limitation of claim 1. Accordingly, by virtue of neither of the cited references teaching this feature of claim 1, claim 1 is allowable over the references.

In addition, one of ordinary skill in the art would not be motivated to combine *MSword* and *Foster* to reach the claimed invention. *MSword* already responds by showing a "the name of the button will appear in a little yellow box" in response to a preview. A user is well aware of the button or paste-buffer's contents at that point. Moreover, if the user were dragging, in the manner taught by *Foster*, the 'name' or other contents with a mouse of *MSword*, **the dragged contents would actually obscure** portions of the destination document to which the user intends to paste – impairing the user's ability to position the paste-buffer within or among text.

The Examiner suggests a reason to combine:

"that both references analogously transform the representation of the icon

upon user initiation of selection to paste (see MS Figure 2 and Foster column 9, lines 44-51 and figure 5c)."

Final office action dated November 25, 2008, p. 8.

Applicants respectfully disagree. Applicants urge that to both show the text 1) when hovering (per *MSword*), as well as 2) when moving the mouse (per *Foster*), are entirely redundant operations, and benefit the user not one wit when performed together. Even if *MSword*'s teaching of displaying the text object were a type of "displaying the graphical image associated with the icon in response to the icon preview instruction", *MSword* already fills the function of alerting the user as to the nature of the contents of the object before pasting. Accordingly, with such function already satisfied in *MSword*, there would be no need to have *Foster* also display a hint of the contents while dragging. One of ordinary skill would not combine two references where each redundantly supplies the same function. Moreover, there is a common sense reason to avoid redundant hinting of contents. Namely, the obscuring effect noted above. That is, *Foster*, by dragging the visible contents, now obscures the text of the target document. Accordingly, the Examiner offers no rational underpinning for an artisan to perform redundant preview operations as would occur when combining *MSword* with *Foster*. Thus, for this additional reason, the Examiner has failed, with respect to claim 1 and corresponding claim 9, to make a *prima facie* case of obviousness under 35 U.S.C. § 103.

Since claims 2-3 depend from claim 1, the same distinctions between *Foster* and *MSword* references and claim 1 apply to these claims. Additionally, claims 2-3 contain other additional combinations of features not suggested by the reference. For example, claim 2 recites "determining whether a display position indicator is positioned over the icon displayed in the clipboard for a predetermined time period". In addition, claim 3 recites "displaying a reduced image of the graphical image". Consequently, it is respectfully urged that the rejection of claims 2-3 have been overcome.

Since claims 10-11 depend from claim 9, the same distinctions between *Foster* and *MSword* and the claimed invention in claim 9 apply to these claims. Additionally, claims 10-11 claim other additional combinations of features not suggested by the reference. For example, computer usable code for determining whether a display position indicator is positioned over the icon displayed in the clipboard for a predetermined time period (claim 10), or computer readable

code for displaying a reduced image of the graphical image (claim 11). Consequently, it is respectfully urged that the rejection of claims 10-11 have been overcome.

Accordingly, Appellants respectfully request that the Board of Patent Appeals and Interferences reverse the Examiner's Final Rejection of claims 1-3, 9-11, and 17.

/Robert C. Rolnik/
Robert C. Rolnik
Reg. No. 37,995

Rolnik & Associates, P.C.
24 N. Kingwood Dr.
Kingwood, TX 77339
(281) 973-5342

CLAIMS APPENDIX

1. A method of previewing a graphical image corresponding to an icon in a clipboard, comprising:

    receiving an icon preview instruction from a user; and

    displaying the graphical image associated with the icon in response to the icon preview instruction.

2. The method of claim 1 wherein receiving an icon preview instruction comprises determining whether a display position indicator is positioned over the icon displayed in the clipboard for a predetermined time period.

3. The method of claim 1 wherein displaying the graphical image comprises displaying a reduced image of the graphical image.

4. A method of displaying a clipboard comprising:

    receiving a paste command;

    determining whether a plurality of objects are stored within the clipboard in response to the paste command; and

    displaying the clipboard adjacent a display position indicator, if it is determined a plurality of objects are within the clipboard.

5. The method of claim 4 wherein displaying the clipboard adjacent the display position indicator comprises positioning an icon associated with a last pasted object adjacent the display position indicator.

6. The method of claim 4 further comprising:

    hiding the clipboard in response to selecting an icon corresponding to an Image stored on a clipboard.

7. The method of claim 4 further comprising:

    hiding the clipboard in response to moving position indicator so that the position indicator is not adjacent to the clipboard.

8. The method of claim 4 further comprising:

    hiding the clipboard in response to selecting a close icon on the clipboard.

9. Computer usable medium including a program for previewing a graphical image corresponding to an icon in a clipboard, comprising:

    computer readable code for receiving an icon preview instruction from a user; and

    computer readable code for displaying the graphical image associated with the icon in response to the icon preview instruction.

10. The computer usable medium of claim 9 wherein computer readable code for receiving an icon preview instruction comprises computer readable code for determining whether a display position indicator is positioned over the icon displayed in the clipboard for a predetermined time period.

11. The computer usable medium of claim 9 wherein computer readable code for displaying the graphical image comprises computer readable code for displaying a reduced image of the graphical image.

12. Computer usable medium including a program for displaying a clipboard comprising:

    computer readable code for receiving a pas-re command;

    computer readable code for determining whether a plurality of objects are stored within the clipboard in response to the paste command; and

    computer readable code for displaying the clipboard adjacent a display position indicator, if it is determined a plurality of objects are within the clipboard.

13. The computer usable medium of claim 12 wherein displaying the clipboard adjacent the display position indicator comprises positioning an icon associated with a last pasted paste-able object adjacent the display position indicator.

14. The computer usable medium of claim 12 further comprising:

hiding the clipboard in response to selecting an icon corresponding to an image stored on a clipboard.

15. The computer usable medium of claim 12 further comprising:

hiding the clipboard in response to moving position indicator so that the position indicator is not adjacent to the clipboard.

16. The computer usable medium of claim 12 further comprising:

hiding the clipboard in response to selecting a close icon on the clipboard.

17. A method of displaying a clipboard comprising:

receiving a paste command;

determining whether a plurality of objects are stored within the clipboard in response to the paste command;

displaying the clipboard adjacent a display position indicator, if it is determined a plurality of objects are within the clipboard; and

removing the clipboard from a display in response to movement of the display position indicator not adjacent to the clipboard.

<u>**EVIDENCE APPENDIX**</u>

Appellants have entered an amended and labeled version of a Figure marked Exhibit A, below.
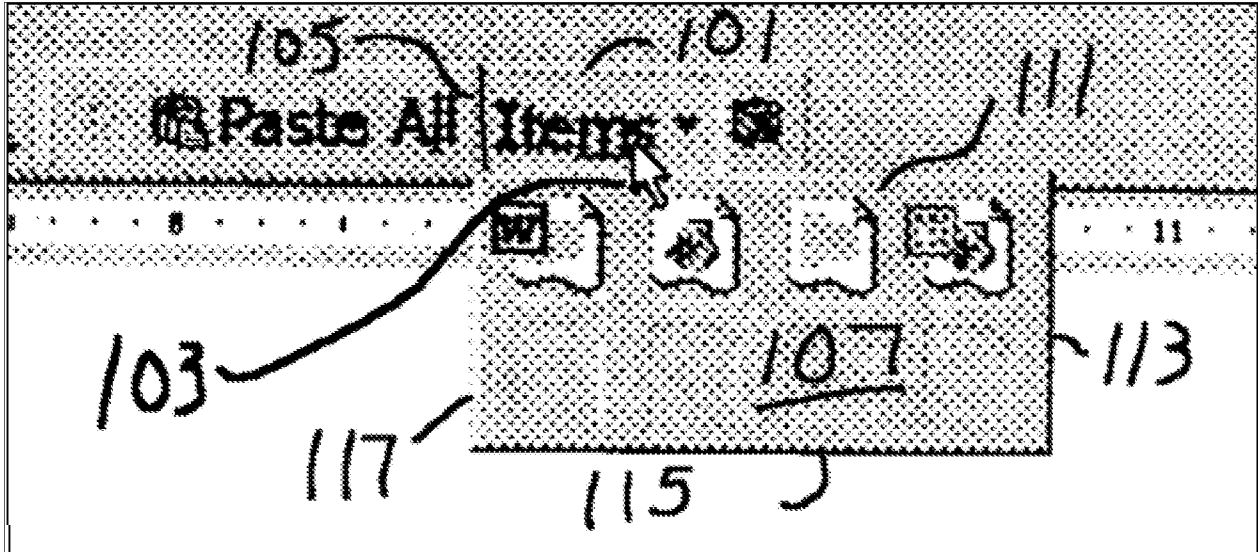
EXHIBIT A

In addition, Appellants entered an Affidavit under 37 CFR § 1.132 as evidence, marked Exhibit B in the subsequent pages.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Martinez et al.	§	Group Art Unit: 2173
	§	
Serial No.: 09/981,877	§	Examiner: Dennis G. Bonshock
	§	
Filed: October 18, 2001	§	Attorney Docket No: AUS920010923US1
	§	
For: METHOD OF PREVIEWING A GRAPHICAL IMAGE CORRESPONDING TO AN ICON IN A CLIPBOARD		

AFFIDAVIT UNDER 37 CFR § 1.132

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

My name is ___Anthony Chambers___,
and I am over twenty-one years of age and fully competent to make this declaration. I have personal knowledge of the statements contained herein and the facts stated herein are true and correct.

1. On January 14, 2009, I visited the office of Robert Rolnik and operated a computer in the manner described below. Unless otherwise noted, a 'click' is a momentary push and release of the left cursor button of a conventional mouse.

2. I do not work for Robert Rolnik. I work in an office in the same building as Robert Rolnik.

3. I operated a Digital HiNote VP laptop computer and observed the following:

The machine booted up with a Windows 98 'splash screen'.

1

The machine provided an icon for Microsoft Word, as well as an icon 'fortesting' located on the desktop. The icon is a symbol for a file that contains an image.

I started Microsoft Paintbrush by clicking the icon labeled 'fortesting'

I started MSWord 2000.

I created a 'Clipboard' menu by accessing the 'Views' menu, and selecting the 'Toolbars' submenu.

I then clicked on the 'Clipboard' submenu item. Initially, the Clipboard was a distinct menu from the main menu at the top of MSword 2000 window.

I moved my cursor over the floating Clipboard, and dragged the Clipboard to the main menu.

Accordingly, I positioned the Clipboard into a menu within MSWord. The Clipboard docked onto a secondary toolbar row above the document page. The Clipboard decreased to a long thin bar showing icons for Copy, Paste All, Items, and Delete.

Figure A substantially shows what I saw, at that point.

2
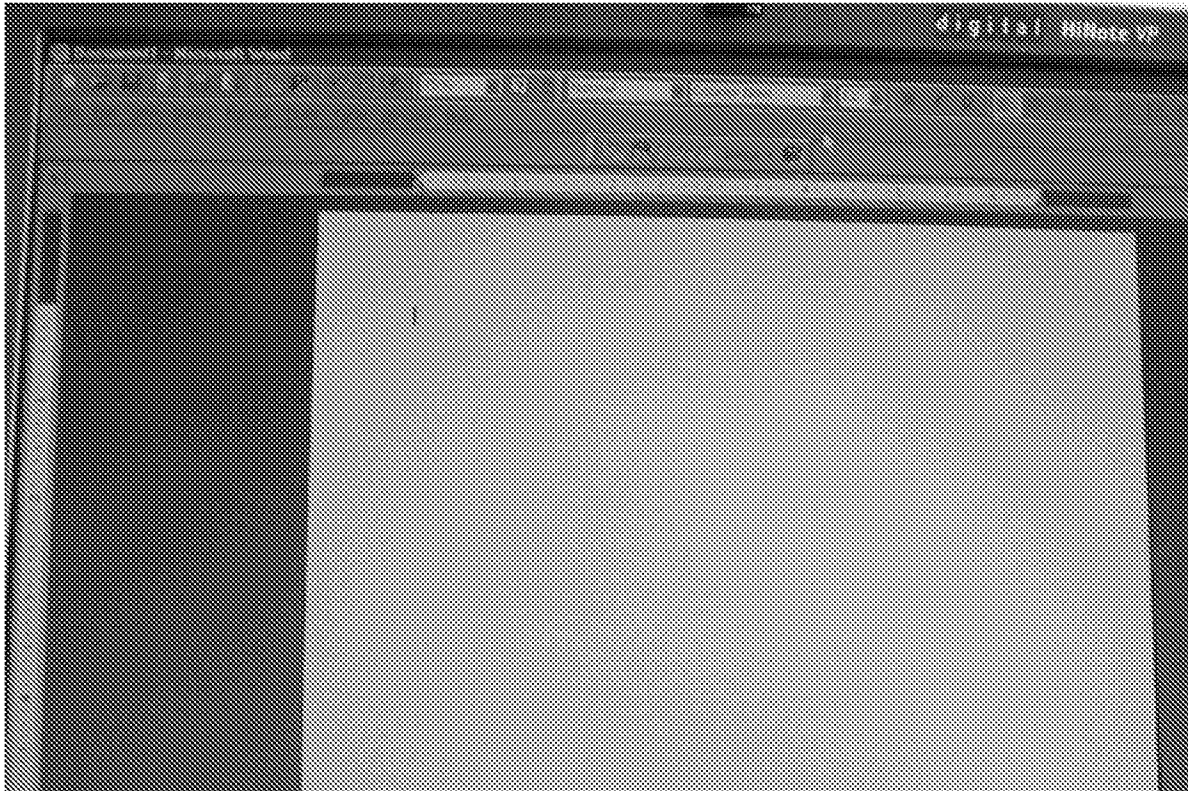
Figure A

I clicked the 'Help' and 'About Microsoft Word' submenu.

The computer responded with a copyright notice as shown below in Figure B.
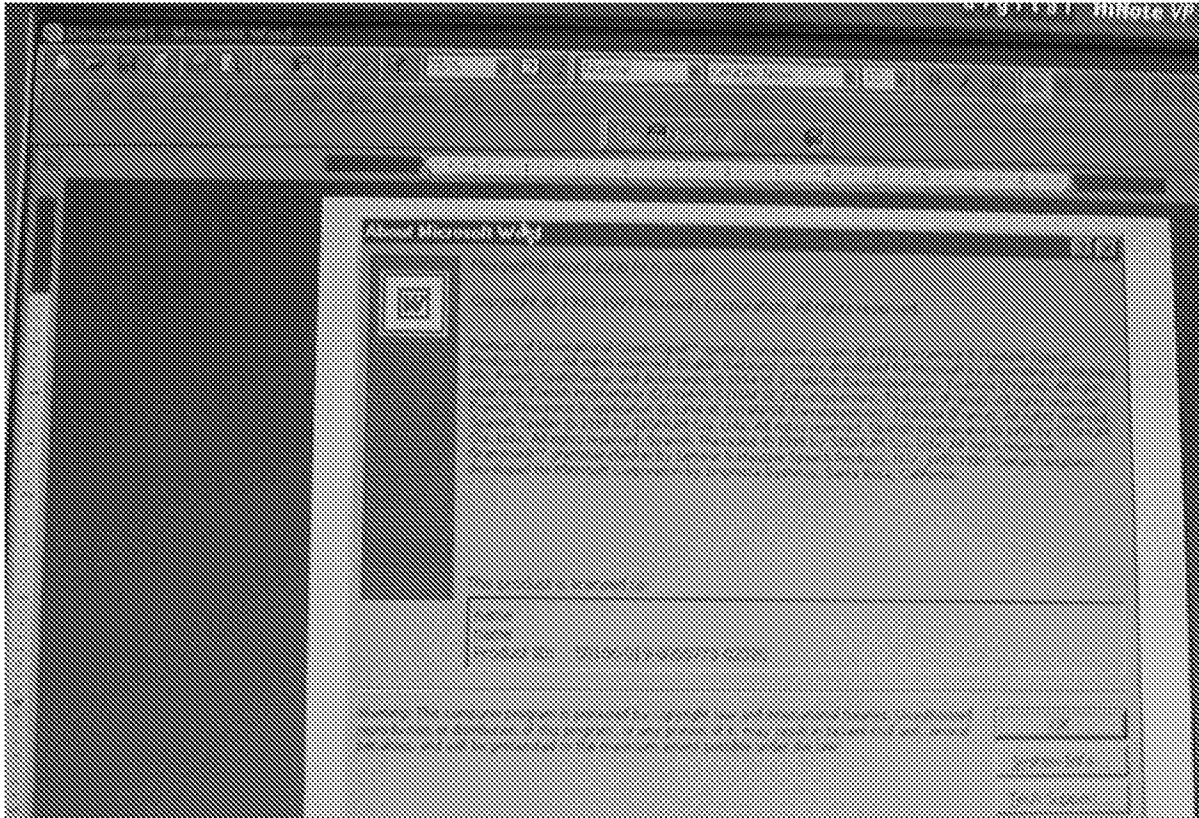
Figure B

I clicked 'OK' on the copyright notice and the MSWord page became blank again.

I typed the phrase 'Test text' into the body of a blank MSWord document.

I highlighted the 'Test text' and copied it to the Clipboard using the 'Control-C' keystroke combination.

I then clicked the content of the document following the word 'text'. In response, MSWord removed highlighting from 'Test text'.

I opened a previously saved 'smiley face' (earlier opened as 'fortesting') image in 'Paintbrush'.

I selected all content within Paintbrush that is an image for copying. I used the 'Control-A' then 'Control-C' keystroke combination to do this selection.

I used the 'alt–tab' key combination to restore the view to the MSWord 2000 window.

I selected 'Items' from the Clipboard, and watched a 'Clipboard' appear or 'pop-up' vertically under the 'Items' submenu.

Figure C shows this view.
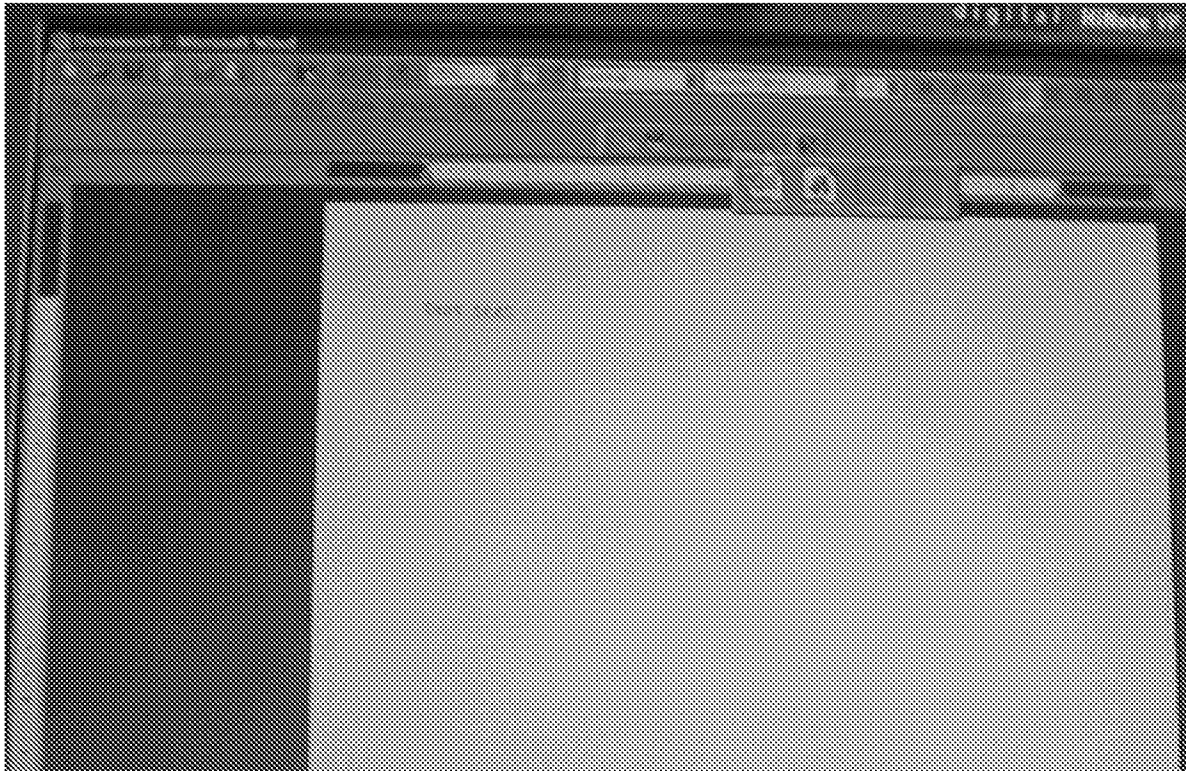
Figure C

I clicked on an icon that matched an image icon.

I saw two responses by MSWord 2000. First, the 'smiley face' image was pasted into the document. Second, the Clipboard disappeared.
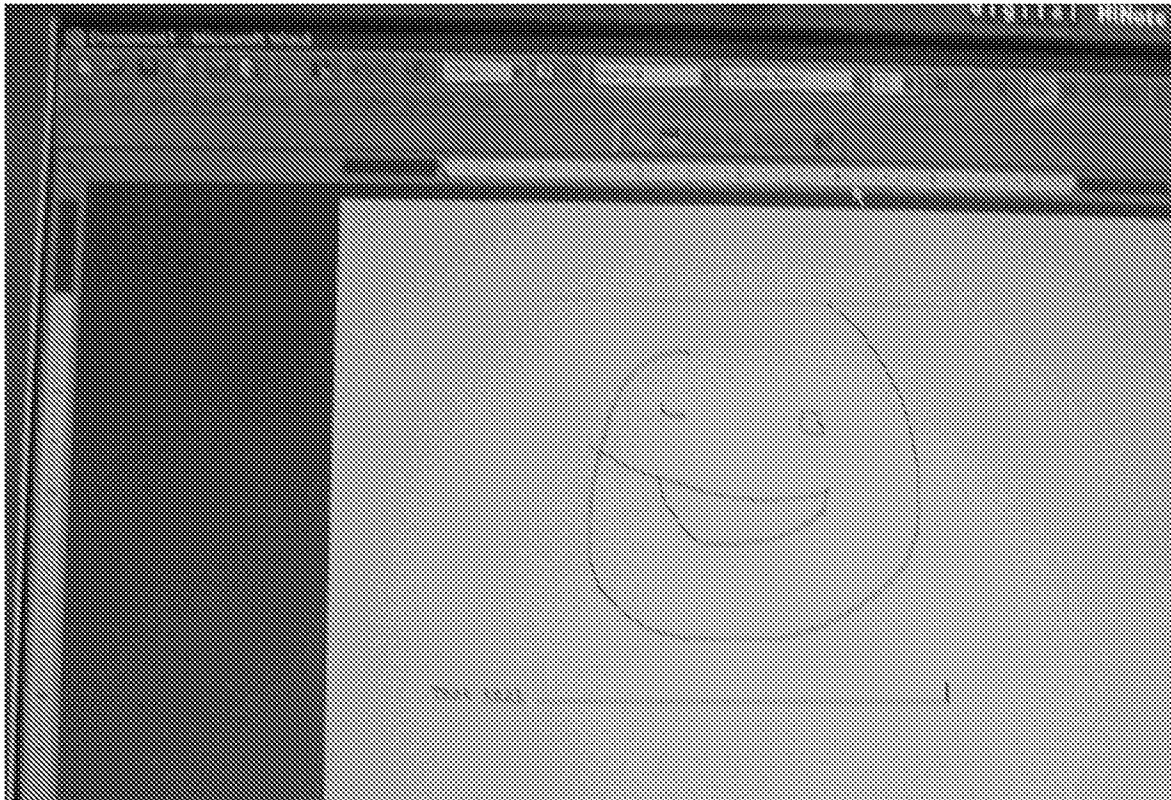
Figure D, below, is an image made after these steps.

Figure D

I clicked the 'Items' submenu.

I watched the Clipboard re-appear.

I moved my mouse, and the arrow cursor, downward over the Clipboard.

Figure E, below, shows substantially what I saw.
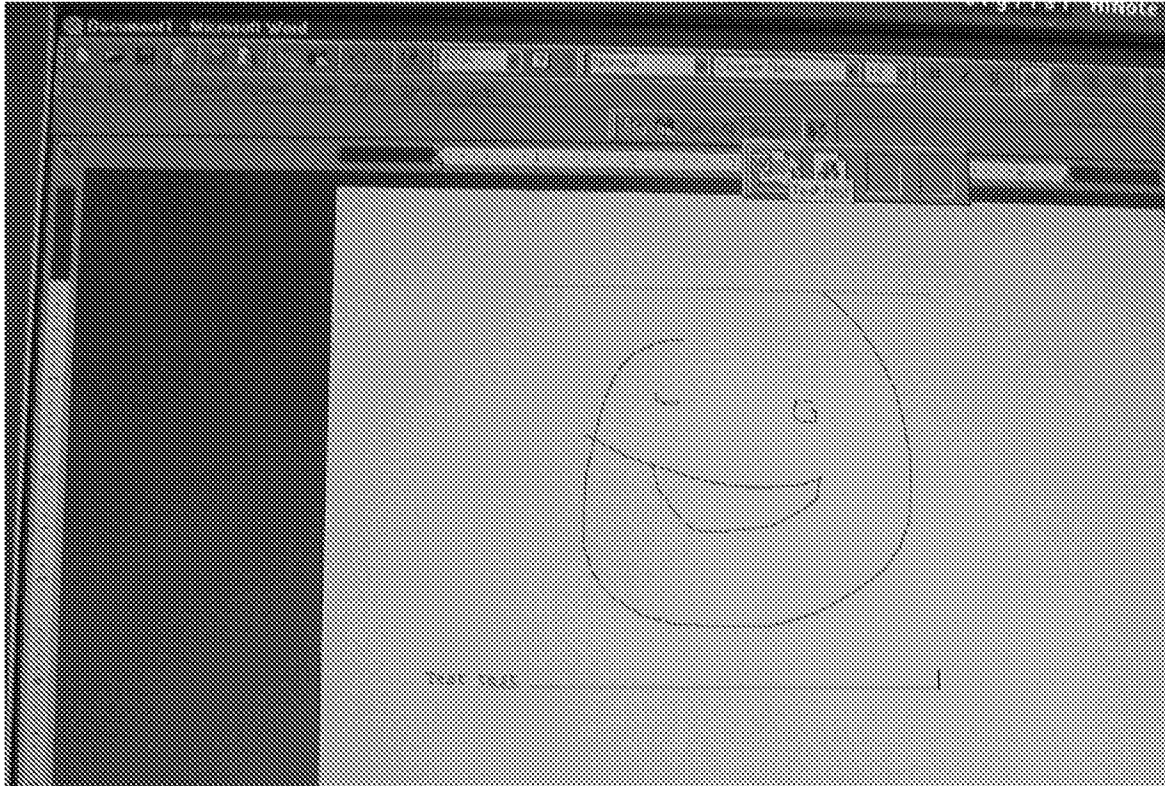
Figure E

I moved the arrow cursor downward, off the Clipboard. No change in Clipboard visibility occurred.

I moved the mouse at least three inches below the Clipboard. No change in Clipboard visibility occurred.

Figure F, below, shows substantially what I saw, at that point.
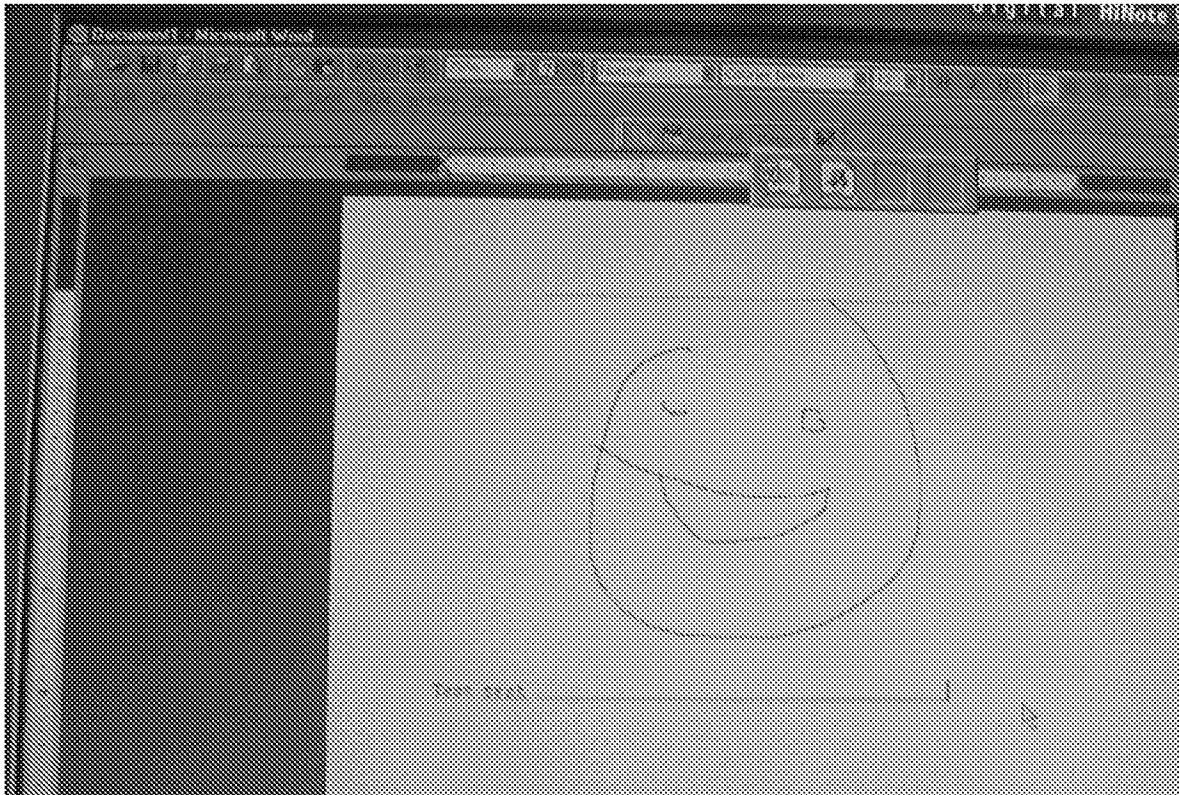
Figure F

I clicked at a location within the white space of the open document.

I saw the Clipboard disappear.

I clicked the 'Items' submenu.

I watched the Clipboard re-appear.

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I moved my mouse, and the arrow cursor, downward over the Clipboard.

I moved my mouse, and the arrow cursor, upward and within the 'Items' submenu.

Figure G, below, shows substantially what I saw, at that point.
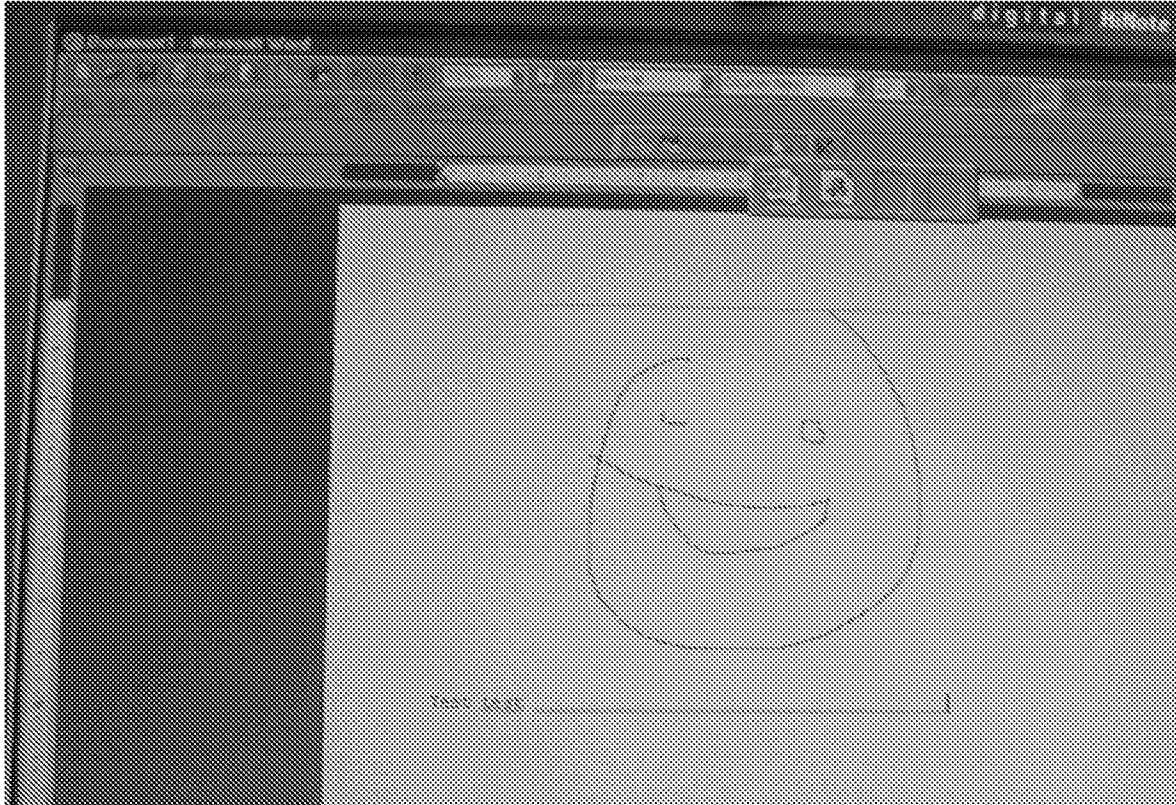
Figure G

I further moved my mouse immediately above the 'Items' submenu, within the grey bar above.

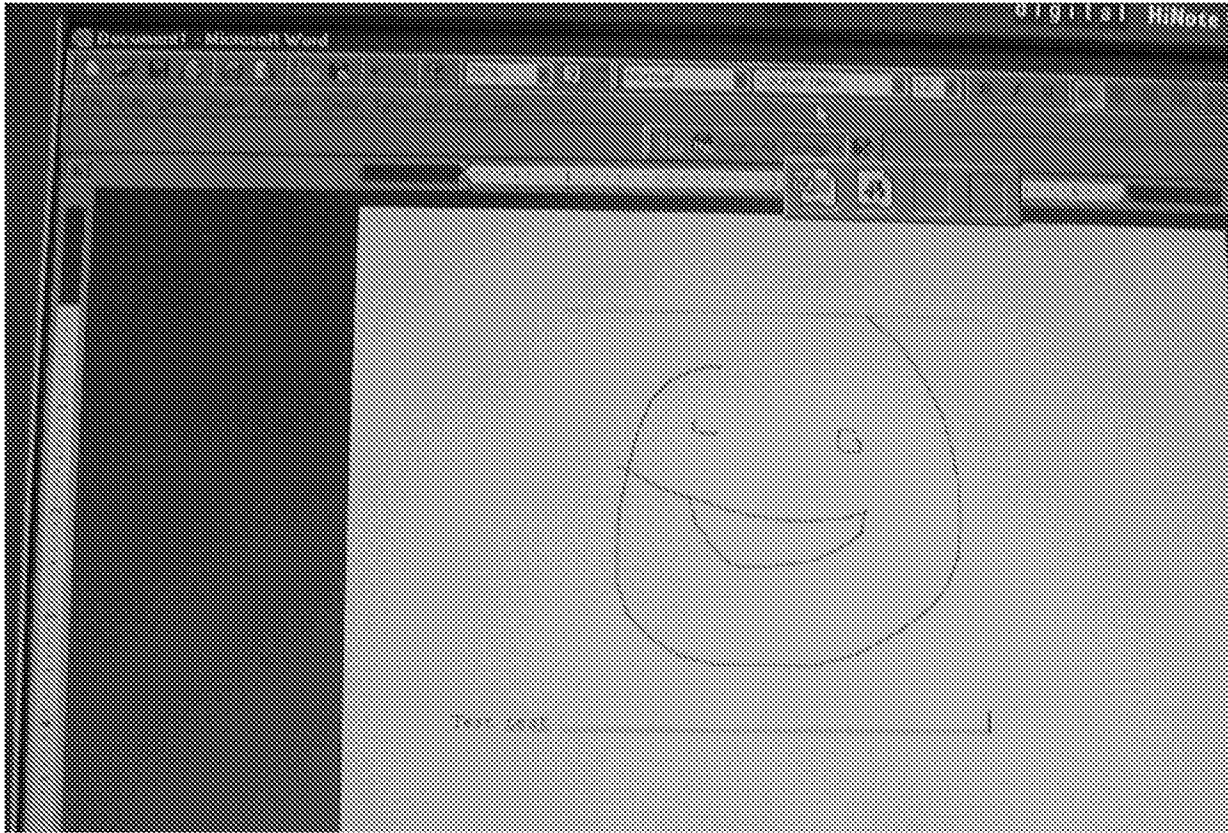Figure H, below, shows substantially what I saw, at that point.

Figure H

I further moved my mouse to the approximate top of the screen.

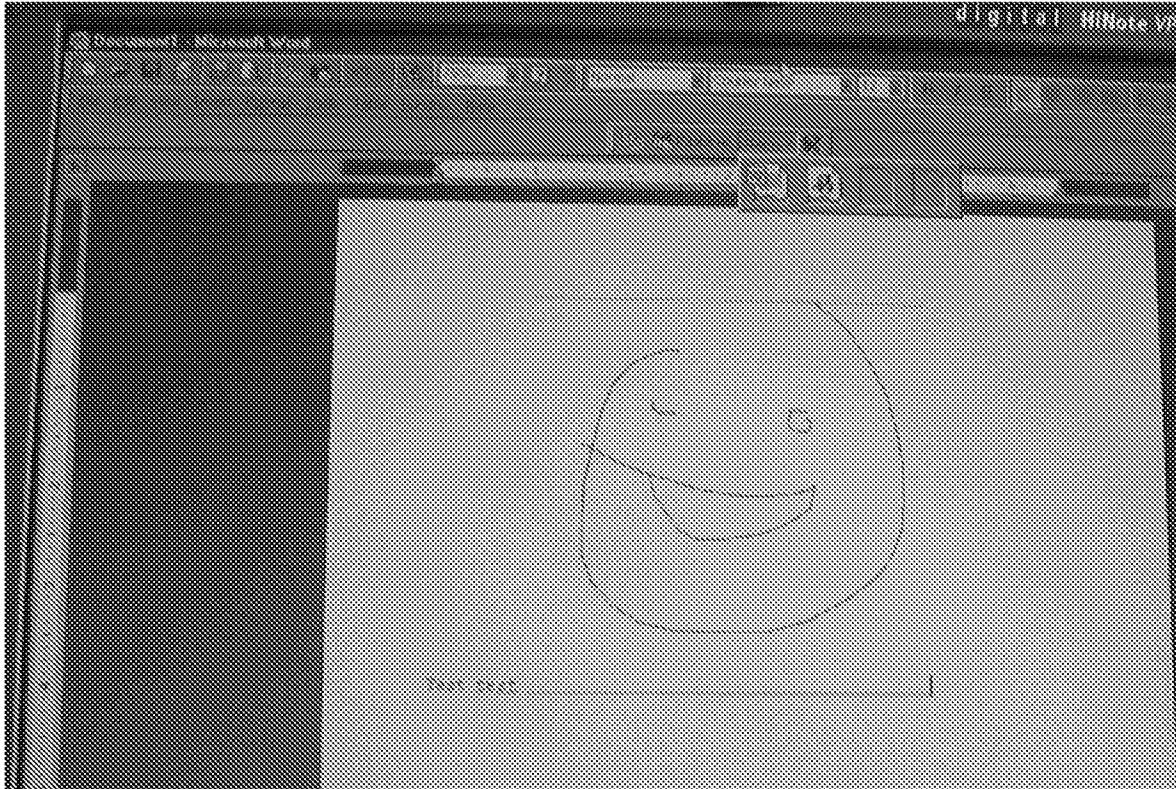Figure I, below shows substantially what I saw, at that point.

Figure I

I can make the clipboard disappear by first placing the cursor over the 'Items' menu (See Fig. G), and moving the mouse to the left.

Once the mouse leaves the 'Items' menu, the clipboard disappears, as shown in Figure J.
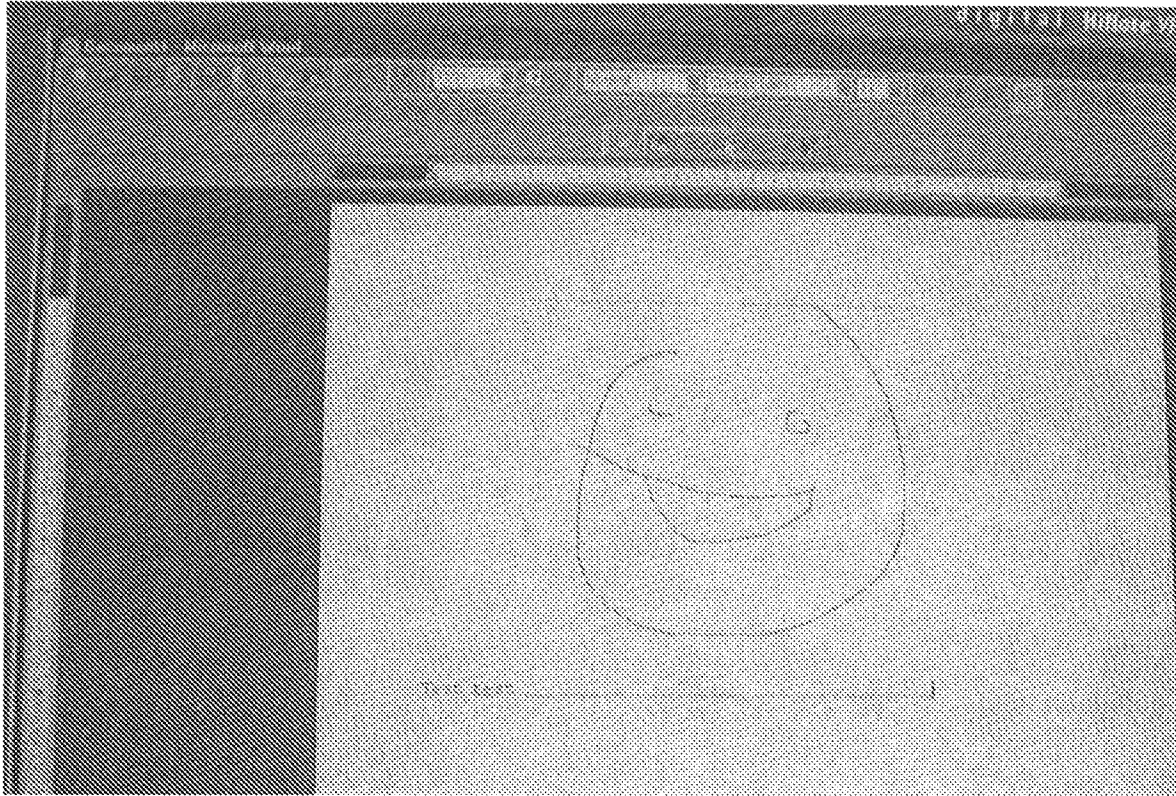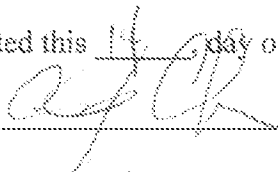
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Figure J

4.   I further declare that all statements made herein are of my own knowledge and all statements made on information and belief are believed to be; and further that these statements are made with the knowledge that willful and false statements are punishable by fine or imprisonment or both under § 1001 of Title 18 of United States Code and that such willful and false statements may jeopardize the validity of the above-referenced application and any patent issuing therefrom.

Executed this ____ day of January, 2009.

_____

Anthony Champion

6830 Amber Pine Court, Suite 100

Humble, TX 77346

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RELATED PROCEEDINGS APPENDIX

The Board of Appeals and Patent Interferences made a decision on January 4, 2008 (Appeal 2007-3276) in a previously filed appeal.